

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

DAVID STEBBINS,

Plaintiff,

v.

RELIABLE HEAT & AIR, LLC, et al.,

Defendants.

)
)
)
)
)
)
)
)
)
)

Case No. 10-3305-CV-S-RED

ORDER

Pending before the Court is Plaintiff's Motion to Impose Sanctions (Doc. 14). Plaintiff asks the Court to impose sanctions on Defendants for filing a frivolous defense. Plaintiff alleges Defendants improperly raised the defense of failure to state a claim upon which relief could be granted. The Federal Rules of Civil Procedure recognize the defense of failure to state a claim upon which relief may be granted. *See* Fed. R. Civ. P. 12(b)(6). In alleging that defense, Defendants were not asserting that the claims of hostile work environment, wrongful termination, and intentional infliction of emotional distress were not recognized claims. Rather, Defendants were alleging that the facts upon which Plaintiff bases those claims do not give rise to relief. Therefore, the defense was not frivolous and sanctions are inappropriate. After careful consideration, the Court **DENIES** Plaintiff's Motion (Doc. 14).

IT IS SO ORDERED.

DATED: December 13, 2010

/s/ Richard E. Dorr

RICHARD E. DORR, JUDGE
UNITED STATES DISTRICT COURT